

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE

RECEIVED
IN CLERK'S OFFICE

AUG 27 2014

U.S. DISTRICT COURT
MID. DIST. TENN.

CRAIG CUNNINGHAM, Pro-se

Plaintiff

v.

Membership Engagement Services LLC

Defendants.

)
)
)
) CIVIL ACTION NO.:
)
)

)

Plaintiff's Original complaint

1. The Plaintiff in this case is Craig Cunningham, a natural person and was resident of Davidson County at all times relevant to the complaint, and currently has a mailing address of 5543 Edmondson Pike, ste 248, Nashville, TN 37211
2. Upon information and belief, Membership Engagement Services, LLC is a company that can be served via their registered agent Corporation Service Company, 2711 Centerville Rd, ste 400 Wilmington DE 19808.

Jurisdiction

3. Jurisdiction of this court arises as the acts happened in this county.
4. Venue in this District is proper in that the defendants transact business here, and the acts and transactions occurred here.

FACTUAL ALLEGATIONS

5. In 2014, the Plaintiff received multiple automated phone calls with a

pre-recorded message to the Plaintiff's cell phone which informed the Plaintiff to that the Plaintiff could get a free gift card and other promotional gifts for trying out a roadside assistance service and another series of calls pitched an ID watch guard service for identity theft protection. The website for Auto service is www.autodiscountservice.com and the Identity theft protection site is www.myidwatchguard.com. The Plaintiff has never consented to these automated calls with pre-recorded messages to his cell phone.

6. Upon further investigation, both companies list Membership Engagement Services LLC (hereafter MES) as the owner of the website. Apparently there are a host of similar sites pitching such products to consumers.
7. As these calls were made on behalf and for the benefit of , MES, both the entity placing the illegal calls and MES are liable for the TCPA violations. MES is liable under the broad principles of agency, to include apparent authority, formal authority, and ratification.
8. These phone calls violated the TCPA in two ways, first by having a pre-recorded message, and second by the automated nature of them. Additionally, the calls violated the TCPA as the pre-recorded messages didn't contain the required identification info stipulated in the TCPA, to include the name, address, and phone number of the entity for which the calls are being placed.
9. All of the parties are jointly, severally, and individually to the Plaintiff for the statutory and punitive damages requested.

CAUSES OF ACTION:

COUNT I

Violations of the Telephone Consumer Protection Act (TCPA)

10. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
11. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing unsolicited and unwelcome telephone calls to the Plaintiff's cell phone. These phone calls also violated the TCPA by having an pre-recorded message that failed to contain the name, address, and phone number for the entity for which the calls are being place as required under the TCPA.

COUNT II

Violations of the Telephone Consumer Protection Act (TCPA)

12. Plaintiff Cunningham incorporates by reference all of the above paragraphs of this complaint as though fully stated herein.
13. The foregoing actions by the Defendants constitute multiple breaches of the TCPA by placing automated calls with pre-recorded messages to the Plaintiff's Cell phone.

PRAYER FOR DAMAGES AND RELIEFS

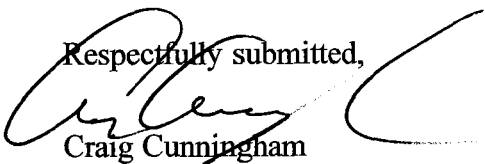
- A. WHEREFORE, Plaintiff, Cunningham, respectfully prays and requests that

judgment be entered against Defendants

- B. Statutory damages of \$3000 for each phone call.
- C. Pre-judgment interest from the date of the phone calls.
- D. Punitive damages for all claims in the amount of \$25,000
- E. Attorney's fees for bringing this action; and
- F. Costs of bringing this action; and
- G. For such other and further relief as the Court may deem just and proper

I, Craig Cunningham, Affiant, hereby attest to and certify that the facts contained in the foregoing complaint are true and correct to the best of my knowledge, information and belief and that a true and correct copy of the foregoing was sent to the defendants in this case.

Respectfully submitted,


Craig Cunningham

Plaintiff, Pro-se

Mailing address:

5543 Edmondson Pike, ste 248

Nashville, tn 37211

828-291-7465

August 26th, 2014